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PUBLIC SERVICE
COMMISSION

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

*****

IN THE MATTER of the Joint Application of NorthWestern Corporation and Babcock & Brown Infrastructure Limited, BBI US Holdings Pty Ltd., BBI US Holdings II Corp., and BBI Glacier Corp. for Approval of Sale and Transfer of NorthWestern Corporation Pursuant to Merger Agreement	UTILITY DIVISION DOCKET NO. D2006.6.82 **INTERVENOR RETIREES' RESPONSE BRIEF**

The fifteen individually named retirees (referred to as the Ammondson Plaintiffs and hereinafter referred to as "Retirees"), acting by and through counsel, hereby respectfully submit their Response Brief pursuant to the Montana Public Service Commission's ("Commission") scheduling order dated April 30, 2007.

INTRODUCTION

Retirees' general position is that the merger between NorthWestern Corporation d/b/a NorthWestern Energy ("NWE") and Babcock & Brown Infrastructure Limited ("BBI") should not be approved by the Commission unless it can be guaranteed that their state court judgment as well as retirement benefits will not be adversely affected. NWE previously sought and obtained this Commission's approval for transfer of its assets based upon misstatements and downright false representations that employee and retirement benefits would not be adversely affected. Retirees believe this present sale is a risky proposed merger that is likely to result in a foreign, parent corporation robbing the assets from the former NWE, leaving the Montana utility with significant debt, without sufficient capital, and potentially judgment-proof. As a result of the BBI merger, the successor corporation to NWE will either soon be back in bankruptcy, or it will have to substantially raise rates to its customers in order to prevent bankruptcy. Retirees believe that history may repeat itself if the successor corporation to NWE files for bankruptcy and tries again to abuse the legal process and avoid the state court judgment presently in effect that they have worked so hard to earn.

ARGUMENT ON CONTESTED ISSUES

In their Prehearing Memorandum, Retirees set forth six conditions to be imposed as conditions of the sale, and, if not, the sale should not be approved. In their opening brief, NWE and BBI only took issue with the Retirees' proposed first condition (setting aside money to pay the judgment). Thus, it would appear that NWE and BBI agree with the remaining five proposed conditions which the Retirees have offered. Despite NWE and BBI's concession of five of the six conditions, Retirees believe that all six of the conditions are necessary for NWE to remedy the wrongdoing and harm it has caused these 15 Retirees in connection with its abuse of process, malicious prosecution and wrongful termination of their supplemental retirement contracts in 2005.

Since NWE and BBI have failed to address the other five conditions proposed by Retirees, NWE and BBI have conceded the other five conditions. Nonetheless, Retirees will address all six of their proposed conditions given their collective importance.

I. NWE SHOULD BE REQUIRED TO SET ASIDE SEPARATE FUNDS IN ESCROW TO PAY THE JUDGMENT PLUS INTEREST, COSTS AND DAMAGES FOR THE DELAY.

The Commission should require as a condition of the sale that NWE and BBI set aside separate funds to pay the state court judgment of $21,454,539 plus interest, costs and damages for the delay while the case is on appeal. Although NWE has posted a $25,800,000 supersedeas bond with the state court (not $28,500,000 as represented in NWE's opening brief), given NWE's long history of abusing these Montana senior citizens, as well as its abysmal track record of honoring financial obligations, the Commission should impose this additional condition to insure that these Retirees, as significant creditors of NWE with ties to Montana unlike NWE's hedge fund owners, will recover the money owed to them. NWE admitted that BBI or NWE could end up in bankruptcy again:

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Q. It is as conceivable as we look to the
forward here, that BBI could run into financial
troubles just like NorthWestern did after this
Commission approved the 2002 sale, and we could, in
fact, while our judgment would be going through the
Montana Supreme Court appeal process, we could end up

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with BBI, a Delaware corporation, for this transaction,
they could under circumstances you might not see today
end up in the place that you ended up in '03 and '04,
correct?

A. **It's certainly a possibility that BBI or any**
of its other investments could end up in bankruptcy.
The difference today, Mr. Edwards, is we have ring
fencing provisions in place that we did not have back
then that insulate and isolate NorthWestern's operating
company from the effects of that. So the premises that
the judgment is somehow at risk, associated with that,
I disagree.

Testimony of Mike Hanson, NWE/BBI Transcript Vol. I at page 97-98. Given the risk of bankruptcy, NWE is asking these Retirees and this Commission to trust the ring fencing provisions to prevent what happened to the Retirees the first time around. However, based on the evidence at the hearing, the ring fencing provisions appear to be a farce:

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If they can take all the cash and upstream it, your ring fencing limitations are fairly hollow.

Testimony of Dr. Wilson, NWE/BBI Transcript Vol. II at page 171.

NWE and BBI mischaracterize the Retirees' requested condition as an improper exercise of judicial powers by the Commission. The requested condition is nothing of the sort. It is not an extra-judicial remedy and it is not a purely judicial function. The Retirees are simply requesting that the Commission use its <u>inherent powers</u> to guarantee that the corporation can pay its debts after a change in ownership. The Commission has the power to require NWE to honor this liability just like it did with the liability associated with the Milltown Dam:

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BY COMMISSIONER RANEY:

Q. Mr. Hanson, how much liability does NorthWestern Energy, the utility, have for Milltown Dam and will that liability be passed onto BBI? And is there any way that BBI could get out of that liability through international agreements?

A. **Commissioner, NorthWestern's liability, financial responsibility in the consent decree was a total of $11.4 million, and that has been fully funded, in escrow accounts.** We've paid the last deposit, so there is no conditioning monetary responsibility for that.

Testimony of Mike Hanson, NWE/BBI Transcript Vol. I at page 134.

The requested condition to set aside funds is reasonable and NWE is, by its own admission, certainly capable of providing the additional protection:

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>
> Q. (BY MR. EDWARDS) Mr. Hanson, the singular
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> 95
>
> question is: Will you stipulate and agree so setting
> aside in a Montana bank 25 to 30 million, which would
> be at interest, to insure the satisfaction of our
> judgment should the Montana Supreme Court affirm it?
> A. Mr. Edwards, I don't believe that's
> necessary. **Whatever the final judgment is, of course,
> we'll pay it. We have the financial capability to pay
> it.** It ought not be necessary to set aside funds or to
> post credit, if you will, beyond the bond that we need
> to post.
> **If we have to post some kind of a credit
> we're certainly capable of doing that as well.** I don't
> think it would be appropriate for me to make such a
> stipulation this morning.

Testimony of Mike Hanson, NWE/BBI Transcript Vol. I at page 94-95 (emphasis added.) NorthWestern's argument against the condition is that it is "not necessary" and would make "cash not available." *NWE/BBI Transcript Vol. I at page 98.* Based upon this weak rationale, it is clear that NorthWestern has no remorse for its malicious abuse of these Retirees. NWE CEO Hanson's unwillingness to agree to this reasonable condition shows the Corporation's continued malice and refusal to do right by these Retirees. This Commission refused to help these Retirees when their contracts were dishonored. The Commission should not turn its back on them again, but should rather exercise its power to force NWE to do the right thing.

II. NWE SHOULD BE REQUIRED TO HONOR THE COMMITMENT TO PAY THE CONRACT PAYMENTS FOR THESE FIFTEEN RETIREES WHILE NWE APPEALS THE STATE COURT JUDGMENT.

Since the judgment, NWE has honored its commitment to the state court to continue to make payments under the contracts. The Commission should make that commitment a requirement of the sale.

III. NWE AND BBI SHOULD BE REQUIRED TO HONOR ALL PENSION BENEFIT CONTRACTS AS A CONDITION OF SALE.

The majority of the fifteen retirees receive other employee and retirement benefits from NWE. As a condition of the sale, NWE and BBI should be required to honor all pension benefit contracts and employee benefit commitments between NWE and current or former Montana employees of NWE or its predecessors. What NWE did to these 15 Retirees should never be allowed to occur again to any retiree.

IV. THE SALE SHOULD NOT BE APPROVED UNLESS THERE ARE CONDITIONS IMPOSED THAT REDUCE THE RISKS IN BBI'S AGGRESSIVE BUSINESS PLAN LIKE LIMITING THE PAYOUT OF DIVIDENDS SO AN ACCEPTABLE EQUITY RATIO IS MAINTAINED.

The overwhelming evidence at the hearing was that BBI's aggressive business plan is not financially sound:

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BY COMMISSIONER RANEY:

Q. Mr. Wilson, I have yet to be convinced that this is going to be a benefit to the customers. I see added risk and added layers of holding company, added layers of management that have to be paid, headquarters outside of our country.

And so my question to you is, as you've gone through all of this and throughout all of your testimony I never found any place where you said there would be benefits to the ratepayers. Did I miss it, or do you think that approval of this in some manner would be a benefit to the ratepayers?

A. Approval of this in the way that it's presented for approval would not present benefits to ratepayers. It would produce very severe risks to ratepayers.

And I'll say it will present very severe risks to the employees of this company. I mean,

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you've had some people come into this proceeding who have lost pensions before. And there are a lot of people in Butte who work for this company who are not well served by--

Testimony of Dr. Wilson, NWE/BBI Transcript Vol. III at pages 159-160. BBI's plan to withdraw in excess of 100% of NWE's net income over an extended period of years suggests that BBI intends to engage in unreasonable business practices which may benefit shareholders but leave Montana ratepayers and retirees at risk and paying increased rates. This appears to be a common theme with private-equity buyout funds and BBI is no different:

> **Private-equity buyout funds are targeting electric power companies in deals that generate massive debt, stop the building of better plants and**

jack up rates. They take profits and stick consumers with the costs.

See. The War For Your Electric Bill by Jim Jubak, pg. 1, dated May 1, 2007 and attached hereto as Exhibit "1". Thus, the proposed merger is a serious threat to the financial viability of the company. Consistent with the expert testimony, Retirees request that the Commission require NWE and BBI to maintain at least a 45 percent equity ration to protect the financial integrity of the company and insure continued funding of ERISA qualified pensions and other remaining non-qualified benefits plans for former Montana employees.

V. NWE SHOULD BE REQUIRED TO IMMEDIATELY FILE A RATE CASE TO INSURE THAT IT IS NOT OVERSTATING ITS CAPITAL STRUCTURE.

NWE should be required to immediately file a rate case because NWE continues to engage in financial misrepresentations by overstating its capital structure. In particular, the amount of Goodwill recorded on the accounts of Northwestern Energy (NWE) appears to be artificial. NWE had Goodwill of approximately $375 Million when it entered bankruptcy in 2003. This occurred primarily because it paid more than the book value for the acquisition of The Montana Power Company. However, it emerged with approximately $435 Million of Goodwill or an increase through the bankruptcy process of almost $60 Million. This increase makes no logical sense, and represents the type of financial shenanigans that landed NWE in bankruptcy and its executives in the cross-hairs of an SEC investigation.[1]

Goodwill cannot be included in the Common Equity component of the capital structure for rate making purposes. NWE has never filed a complete utility rate case in Montana and, as such, there has never been an opportunity by the Commission and the MCC to evaluate how NWE intends to treat or account for the fictionally large amount of Goodwill and present the appropriate level of Common Equity in the capital structure. Until such a rate hearing takes place, it is unknown how NWE is going to improve its dismal financial performance and to what extent the utility rate payer is going to be adversely impacted. If the Commission approves the sale, it is not only the Montana ratepayer but also the Retirees who have to live with this great uncertainty related to rates, the security of their pensions, and the ability of NWE to satisfy the state court judgment.

A sale to BBI will only reward the shareholders with huge profits as NWE's common stock is currently trading at the artificially high price of $35.75 per share. At this price, the stock is valued at the ridiculously high price/earnings ratio of 35 times expected earnings. The reason for this gross overvaluation is that the current shareholders are expecting this Commission

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[1] *See Billings Gazette Article "Forner NorthWestern Officials Fined"* attached hereto as Exhibit "2." Just like CEO Hanson's failure to discipline (*See Section VI herein)* himself and the other executives for their collective malicious prosecution of Montana senior citizens, the NWE officials fined $425,000 by the SEC "neither admit nor deny allegations that they hid problems at NorthWestern." Apparently, this failure of top executives to take responsibility for misconduct is pervasive and part of NWE's culture of corruption.

will approve the sale to BBI, as well as the fact that NWE continues to pay an annual common stock dividend of $1.24 per share, which exceeds the company's annual earnings, and continues to increase the already negative retained earnings on its balance sheet.

In the event that the Commission does not approve the sale to BBI and NWE continues its efforts to sell the utility properties, the bidding process will undoubtedly attract other financially stronger companies and take Montana out of this never-ending nightmare of being served by a financial sick and under capitalized utility company.

VI. NWE SHOULD BE PRECLUDED FROM PAYING THE FIVE EXECUTIVE THAT COMMITTED THE INTENTIONAL TORTS OF ABUSE OF PROCESS AND MALICOUS PROSECUTION FROM RECEIVING FURTHER COMPENSATION BY BONUSES OR CHANGE OF CONTROL AGREEMENTS UNTIL THE RETIREES HAVE BEEN MADE FINANCIALY WHOLE.

The Commission should preclude further compensation, by change-of-control or golden parachutes, to the executives of NWE that were involved in the abuse of process and malicious prosecution related to these 15 Retirees until the executives have remedied their misconduct by making the Retirees financially and emotionally whole. These officers and executives have never been disciplined or even investigated by the corporation for their abuses:

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Q. Was a special committee of the Board of
Directors formed to investigate any of the

allegations concerning my clients in the claims
made in their lawsuit?
A. No.
Q. That would be true even after the state
court judgment?
A. Yes.
Q. Does NorthWestern have any intent in
making an investigation into those allegations?

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A. We have no intent to do so at this time.
The court process will handle the matter.
Q. So there's no corollary disciplinary
process at NorthWestern with respect to those
employees?
A. No.

Testimony of Mike Hanson, NEW/BBI Transcript, Vol. II, pgs. 283-284. Indeed, in the Retirees' state court action, NWE has taken the position in its post-judgment filings that it is unduly harsh, and indeed "harassing," for the judgment awarded by the Montana court to be entered in the respective home states of the individual corporate defendants, including CEO Hanson.

Incredibly, CEO Hanson testified in front of this Commission several weeks after the jury's verdict that <u>he didn't even know the judgment applied to him personally</u>:

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BY MR. EDWARDS:
Q. Good morning, Mr. Hanson.
A. Good morning, Mr. Edwards.
Q. I want to ask just a couple predicate
questions before I go to the heart of this. You will
concede on the record here that there is a judgment

against NorthWestern and among others you, personally, for $17.5 million in Butte, Silver Bow County correct?
A. My understanding of it, Mr. Edwards, is there is a jury verdict in favor of the plaintiffs for the corporation. I did not understand that there was liability in the verdict attached to any individual.
Q. Well, I will represent to you, because it is now a judgment not a verdict, and you personally along with Mr. Drook, Cleward and Kovash and Schrumm all have a $17.5 million judgment against you personally as well as NorthWestern, and that NorthWestern has a $4 million punitive verdict against the corporation only.
A. I am not aware of that.

Testimony of Mike Hanson, NWE/BBI Transcript Vol. I, pg. 93 (emphasis added.)

Thus, not only do these individual NWE executives who were each found guilty of maliciously prosecuting a group of senior citizens lack remorse for their crimes, they don't even care enough to know they have been convicted! And who can blame them? They are singularly focused on the millions of dollars they stand to reap, personally, if this Commission approves this sale. This Commission has the power, and certainly the moral authority, to order as a condition of the sale that the individual NWE judgment creditors be precluded from receiving bonuses, compensation or golden parachutes until the judgment has been paid. What could be more fair or appropriate under these circumstances than to insist that the Retirees get paid before the executives who maliciously prosecuted them?

CONCLUSION

On January 31, 2002, the Commission approved the sale of Montana Power Co. transmission assets to NorthWestern Corp., which had testified that it was worth billions of dollars and could easily handle the role of supplying the "lowest cost" electricity and natural gas to Montanans. Two years later, it was bankrupt, forcing Montanans to pay unnecessarily high rates ever since. Even worse, NorthWestern was fudging its financial numbers in its required SEC disclosures, and abusing the legal process in bankruptcy in an illegal attempt to terminate Montana senior citizens' retirement benefits. They were caught red handed by the bankruptcy judge, and after two years of legal maneuvering, held responsible by a Montana jury. They continue to fight to avoid their legal obligations, and go so far as to threaten the Commission not to "interfere" because it would be "overstepping its bounds." This Commission should not rely on NorthWestern's hollow arguments and empty promises yet again. Instead, this Commission should, given the sad history of this corporation, impose the reasonable and meaningful conditions that have been requested by these Retirees to adequately protect them and their fellow Montanans from further misdeeds by this corporation and its successors.

Fool me once, shame on you. Fool me twice, shame on me.

RESPECTFULLY REQUESTED this 4th day of May, 2007.

EDWARDS, FRICKLE,
ANNER-HUGHES & CULVER

By:______________________________

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 4th day of May, 2007, a true and correct copy of the foregoing INTERVENOR RETIREES' RESPONSE BRIEF was served on the following:

Montana Public Service Commission (Original plus 10 copies)
1701 Prospect Avenue
P.O. Box 202601
Helena, Montana 59620-2601

And mailed this date to the service list in this Docket.

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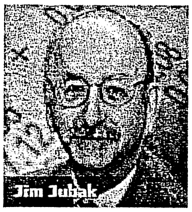


Jubak's Journal 4/27/2007 12:01 AM ET

The war for your electric bill

Private-equity buyout funds are targeting electric power companies in deals that generate massive debt, stop the building of better plants and jack up rates. They take the profits and stick consumers with the cost.

By Jim Jubak

The last time Wall Street applied its best minds to the electric power industry, they brought us Enron, brownouts and wholesale-price-gouging in California, not to mention higher electric bills.

Now, not even 10 years later, they're at it again: Private-equity buyout funds have set their sights on electric utilities. And the result will be? You guessed it, higher electric bills for you and me. As if inflation and the rising cost of oil and natural gas isn't pushing our bills up fast enough already.

You may have heard about the huge sums raised by buyout funds designed to buy public companies and take them private. These funds raised $189 billion in 2006, a record, and look like they're headed for more than $250 billion in 2007.

And you may have heard about the huge deals they've done recently, with each deal bigger than the last: $27 billion for **First Data** (FDC, news, msgs), $32 billion for HCA, $38 billion for Equity Office Properties and, temporarily the biggest deal on record, $44 billion for **TXU Corp.** (TXU, news, msgs), a Texas electric utility.

Bad news all around

Other electric utilities are likely to get bids sometime in 2007. A few have already put themselves up for sale: **Mirant** (MIR, news, msgs), a utility with 24 generating plants in the United States, for example, indicated on April 9 that it wouldn't mind getting a bid. And buyout funds are kicking the tires on other utilities. The buyout funds have lots of money to put to work, and utilities have the kind of big predictable cash flow that these funds like to see.

This is bad, bad news for your utility bill in the short run. In the long run, it's even worse.

In the short run, making a profit on one of these buyout deals depends, first, on "restructuring" the company so that it's more profitable than it was before the buyout. Most of the time, restructuring involves spinning off money-losing operations and outsourcing some part of operations -- and it always involves cutting jobs.

That would be bad enough in the case of a utility, since job cuts are likely to mean a decline in utility service.

But you'll wind up paying more for less service because, second, turning those small gains in corporate profits into big profits for buyout investors rests on building the buyout deal so that borrowed money, known as leverage, multiplies those relatively modest improvements in corporate earnings.

Piling on the debt

A typical buyout deal works like this. To fund its purchase of the soon-to-be-private company, the buyout fund puts up some cash -- say, 25% of the total purchase price -- and borrows the rest by issuing debt backed by the assets of the acquired company. So in buying TXU, the buyout fund might put up $11 billion in cash -- certainly not chump change -- and then sell $33 billion in TXU debt to big institutional investors to complete the purchase. In essence, the purchased company buys itself, but the buyout fund (and its investors) gets 100% of all future profits when the company is eventually sold back to the public. Ex. 1

And that's not the limit of the debt load to be piled on the purchased company's balance sheet. Used to be that buyout funds waited until they dressed up a company and sold it back to public investors before they cashed out. In today's market, buyout funds have added a new wrinkle: While the company is still private, it issues a big cash dividend to the buyout investors, so those investors get part of their cash back in short order. How does the company pay for that dividend? Why, by issuing more debt, of course!

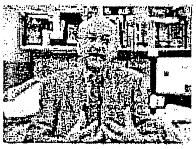
Even before the deal, TXU was carrying a big load of short-term ($1.5 billion) and long-term ($10.6 billion) debt, and paying a sizable interest bill of $784 million in 2006. Adding an additional $33 billion or so in debt will run that interest bill significantly higher. And that additional debt load will put pressure on the company's credit rating, already a relatively low BB from Standard & Poor's.

Who pays? Customers

That BB rating is already one notch below what's called "investment grade," meaning that the big debt-rating agencies such as Standard & Poor's, Moody's and Fitch think there's a significant chance that this debt will go into default and that the borrower won't be able to pay. About 1.2% of BB grade debt (or Ba in Moody's system) went into default within a year of rating, according to Moody's, in the period 1970 through 2001. Down one notch, the historical default rate climbs to 6.53%.

Think investors might want TXU to pay more interest on all that new -- and old -- debt to make up for the added risk posed by the post-buyout debt load? And who's going to pay the interest on all that borrowing? The utility's customers.

Video on MSN Money



Buyout boom fears

The buyout boom has loaded up corporate balance sheets with debt just as the era of easy money is ending. Even if interest rates don't go up, tougher loan standards mean it could get harder to finance these deals, says MSN Money's Jim Jubak.

Texas residential customers already pay some of the highest prices for electricity in the country. According to the U.S. Energy Information Administration, a residential customer in Texas paid an average rate of 12.09 cents per kilowatt-hour. Only the Northeast and California pay higher rates.

Exploiting the inefficiencies

Which is odd, when you think about it, because TXU generates most of its electricity from coal, and coal is one of the cheapest ways to produce electricity. In the bad old days before utility deregulation in Texas, state regulators would have required TXU to sell its electricity at cost plus a profit set by the regulators. But thanks to energy deregulation in Texas, the "free" market sets the price of electricity, and the free market price is based on the much higher cost of generating electricity from natural gas.

If it were easy to ship electricity from one place to another, that price discrepancy wouldn't exist. Cheaper coal-based electricity from, say, Wyoming would enter the state when the Texas market demanded it and keep prices low. But the national electricity grid has bottlenecks that prevent low-cost out-of-state electricity from meeting Texas demand.

Buyouts like that of TXU work only because of inefficiencies like this, and in the long run, buyout firms have an interest in perpetuating these inefficiencies so that local prices stay high.

New plants canceled

The long-run logic of utility buyouts leads to lower investment in power lines that would eliminate price differences like those that cost consumers money in Texas (and California and the Northeast). And it leads to lower investment in new power plants, since spending cash on new, more efficient plants cuts the utility cash flow so necessary to paying all that post-buyout debt.

So it's no coincidence that immediately after the announcement of the buyout, TXU said it would cancel eight of the 11 coal-burning power plants that it had planned to build. (That also let the buyout funds score big points with environmental groups that had been fighting TXU on its plans.) The additional power from the three plants should meet near-term increases in demand for electricity and avoid the kind of brownouts that bring regulators out in force. And canceling the plants would conserve cash and keep Texas prices high.

There's not a whole lot of risk in the TXU deal for the buyout funds, because they've done this one before in Texas, and it turned out very well indeed for them. In 2004, buyout funds Texas Pacific and Kohlberg Kravis Roberts, the same funds that are leading the TXU buyout, bought Texas Genco, another Texas utility with low generating costs. They flipped that company for a $2 billion profit in about a year.

Higher electricity bills

And, unfortunately for consumers of electricity around the country, the model isn't limited to Texas. It will work anyplace where the national grid has a bottleneck and where a utility can exploit a price inefficiency. For example, to get ready to market itself to buyout funds, Mirant has been selling off its high-cost natural-gas-powered generating plants in the Midwest. That would leave the company with three main markets, the Mid-Atlantic, the Northeast and California, all with high electricity costs and grid bottlenecks and with a generating capacity dominated by coal-fueled power plants.

Ordinarily, I have nothing against investors or companies that exploit pricing inefficiencies in the market. That is, after all, one way that the market eliminates these inefficiencies over time. But in this case, the buyout deals for utilities in these markets will make the inefficiencies worse. The newly private utilities will have no incentive to build new transmission lines to improve the national grid, and they will have no incentive to spend capital on building new, less-polluting and more efficient power plants to meet projected demand, beyond the minimum required to keep regulators on the sidelines.

The bottom line of these deals is high profits for buyout funds and their investors and higher electricity prices for the rest of us.

New developments on past columns

"Why fewer jobs are going overseas": On April 24, **C.H. Robinson Worldwide** (CHRW, news, msgs) announced that first-quarter 2007 earnings came in at 42 cents a share, an increase of 27% from the first quarter of 2006 and 4 cents above analyst expectations. Revenues rose 8% from the first quarter of 2006, hitting $1.62 billion for the quarter, matching Wall Street projections. Dig down and the results are even better than the top-line numbers indicate. The two trends that have driven profit margins higher for C.H. Robinson not only show no signs of slowing down but may even be accelerating.

Thanks to falling truck freight rates -- which work to the advantage of a logistics company like this that hires trucks to move freight for customers -- and to a further shift in intermodal freight traffic to the more profitable long-haul segment from short-haul routes, the company saw a 17.7% increase in gross profit margin in its transportation business from the first quarter of 2006. That drove gross margins in this business to 20.2% from 18.3% in the first quarter of 2006. For the company as a whole, gross profit margins climbed to 18.3% this quarter, well above the 15.5% average for the last five years. I picked C.H. Robinson Worldwide for Jubak's Picks on Jan. 5, 2007, in order to add a logistics stock to the portfolio to take advantage of the global logistical crisis that I see slowing the trend to send jobs overseas. That idea is working better than I expected and should keep working thanks to robust growth in the global economy outside the United States. As of April 27, I'm raising my target price for the stock to $62 a share by June 2007 from my previous target of $58 by September 2007.

Video on MSN Money

Buyout boom fears

The buyout boom has loaded up corporate balance sheets with debt just as the era of easy money is ending. Even if interest rates don't go up, tougher loan standards mean it could get harder to finance these deals, says MSN Money's Jim Jubak.

"How to handle this risky new market": The U.S. economy continues to look like it's slowing, but I don't see any signs of short-term weakness in the U.S. stock market. Even the good economic news these days isn't all that good. On April 25, the Commerce Department reported a 3.4% in new orders for durable goods. That was certainly a big improvement over the 8.8% plunge in orders for stuff like airplanes and industrial machinery that lasts for a while, but once you smooth out the results for the last few months, the trend is still negative. Business investment looks weak -- not exactly what an economy already struggling with a huge downturn in the home-building sector needs. (To see if business investment is indeed playing a negative role in the economy as a whole, check out the first quarter GDP numbers that are due out today, April 27.) Nonetheless, the stock market isn't showing any signs of weakness. For example, the advance/decline line -- which traces increases and decreases in the net number of stocks climbing (after subtracting the number falling) -- right now confirms the strength of the rally. And short positions are climbing, providing potential fuel for the rally to continue. But don't get too carried away: The sectors leading this rally, utilities, materials and energy, are exactly the sectors that lead a market that's nearing its peak. We're not at a top yet, I'd say, but this is a mature rally that doesn't justify huge new bets, in my opinion.

Join Jubak at The Money Show

MSN Money's Jim Jubak will be among more than 100 renowned money experts, advisers and analysts sharing their wisdom at more than 250 free workshops at **The Money Show Las Vegas, May 14-17** at the Mandalay Bay Resort & Casino. You can also network with fellow market enthusiasts, exchange investment ideas, share your experiences and enjoy the fellowship of like-minded investors. Admission is free for MSN Money readers. For complete details or to register for free admission, call 1-800-970-4355 (be sure to mention priority code **#008095**) or visit the Money Show Web site.

Editor's note: *A new Jubak's Journal is posted every Tuesday and Friday. Please note that recommendations in* Jubak's Picks *are for a 12- to 18-month time horizon. For suggestions to help navigate the treacherous interest rate environment, see Jim Jubak's portfolio of* Dividend stocks for income investors. *For picks with a truly long-term perspective, see Jubak's* 50 best stocks in the world *or* Future Fantastic 50 Portfolio. *E-mail Jim Jubak at* jjmail@microsoft.com.

At the time of publication, Jim Jubak did not own or control shares of any of the equities mentioned in this column. He did not own short positions in any stock mentioned in this column.

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Former NorthWestern officials fined

By The Associated Press

SIOUX FALLS, S.D. - Fines totaling $425,000 have been levied against four former NorthWestern Corp., executives accused of overstating the company's performance before the company filed for bankruptcy in 2003.

Merle Lewis, NorthWestern's former CEO, and Richard Hylland, its former chief operating officer, have been fined $150,000 each, according to new Securities and Exchange Commission documents.

Kipp Orme, who was the chief financial officer, has been fined $100,000, while former controller Kurt Whitsel was assessed a $25,000 fine.

The former executives have agreed to the settlements but neither admit nor deny allegations that they hid problems at NorthWestern, which has been the subject of an SEC investigation since 2003.

The four also are barred for five years from serving as an officer or director of any firm that is required to file reports to the SEC.

The SEC has said the executives "overstated the performance of NorthWestern and its key telecommunications subsidiary Expanets Inc. in 2002 during the same period that NorthWestern completed securities offerings totaling more than $800 million."

Donald Hoerl, an SEC official, said he couldn't comment on the specifics. A federal judge still has to approve the settlement.

"Justice, to me, would have been $1 million apiece," said Kenneth Emme, a former NorthWestern shareholder from Lakeville, Minn. "They made that much; they should have it all taken away from them.

Lewis retired in January 2003 and received a retirement package valued at $3.5 million.

Common shareholders of NorthWestern lost their investments during the bankruptcy.

In March, the SEC filed complaints against the company, saying it concealed losses and was untruthful. NorthWestern agreed to cease and desist from future violations of securities laws _ but also did not admit or denying the SEC findings. The company had no fine or other penalty in that settlement.

Ex. 2

NorthWestern Corp. is the parent company of NorthWestern Energy, which sells electricity and natural gas to about 628,500 customers in Montana, South Dakota and Nebraska.

The public company, which emerged from bankruptcy, is under agreement to be bought by Babcock & Brown Infrastructure, of Sydney, Australia, in a cash deal worth $2.2 billion.

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